

109TH CONGRESS
1ST SESSION

H. R. 366

To amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to strengthen and improve programs under that Act.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 26, 2005

Mr. CASTLE (for himself, Mr. BOEHNER, Mr. McKEON, Mr. EHLERS, and Mr. WILSON of South Carolina) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to strengthen and improve programs under that Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Vocational and Tech-
5 nical Education for the Future Act”.

6 **SEC. 2. REFERENCES.**

7 Wherever in this Act an amendment is expressed in
8 terms of an amendment to or repeal of a section or other
9 provision, the amendment or repeal shall be considered to

1 be made to a section or other provision of the Carl D.
2 Perkins Vocational and Technical Education Act of 1998
3 (20 U.S.C. 2301 et seq.).

4 **SEC. 3. PURPOSES AND DEFINITIONS.**

5 (a) **PURPOSES.**—Section 2(2) (20 U.S.C. 2301(2)) is
6 amended by inserting “rigorous and challenging” after
7 “integrate”.

8 (b) **DEFINITIONS.**—Section 3 (20 U.S.C. 2302) is
9 amended—

10 (1) by striking paragraph (26) and redesignig-
11 nating paragraphs (21) through (25) as paragraphs
12 (23) through (27), and paragraphs (27) through
13 (30) as paragraphs (29) through (32), respectively;

14 (2) by redesignating paragraphs (4) through
15 (20) as paragraphs (5) through (21), respectively,
16 and inserting after paragraph (3) the following:

17 “(4) **ARTICULATION AGREEMENT.**—The term
18 ‘articulation agreement’ means a written commit-
19 ment, agreed upon at the State level or approved an-
20 nually and facilitated by the lead administrators of
21 the secondary and postsecondary consortia members
22 as described in section 135(b)(3)(A), to provide a
23 program designed to provide students with a non-
24 duplicative sequence of progressive achievements
25 leading to degrees, certificates, or credentials in a

1 tech-prep education program linked through credit
2 transfer agreements.”;

3 (3) in paragraph (5) (as so redesignated), by
4 inserting “to students (and parents, as appro-
5 priate)” after “providing access”;

6 (4) in paragraph (6) (as so redesignated), by
7 striking “section 5206” and inserting “section
8 5210”;

9 (5) in paragraph (7) (as so redesignated)—

10 (A) by striking “method of instruction”
11 and inserting “method”; and

12 (B) by inserting “rigorous and chal-
13 lenging” after “required”;

14 (6) in paragraph (11)(A) (as so redesignated),
15 by striking “an” and inserting “a public or non-
16 profit private”;

17 (7) in paragraph (18) (as so redesignated)—

18 (A) in the paragraph heading, by striking
19 “training and employment” and inserting
20 “fields”;

21 (B) by striking “training and employment”
22 and inserting “fields”; and

23 (C) by inserting “current and” after “tech-
24 nology, and other”;

1 (8) in paragraph (19) (as so redesignated), by
2 striking “the Republic of the Marshall Islands, the
3 Federated States of Micronesia,”;

4 (9) by inserting after paragraph (21) (as so re-
5 designated) the following:

6 “(22) SCIENTIFICALLY BASED RESEARCH.—
7 The term ‘scientifically based research’ has the
8 meaning given that term in section 9101(37) of the
9 Elementary and Secondary Education Act of 1965
10 (20 U.S.C. 780137).”;

11 (10) in paragraph (25) (as so redesignated)—

12 (A) in subparagraph (C), by striking
13 “training and employment” and inserting
14 “fields”;

15 (B) in subparagraph (E), by striking
16 “and”;

17 (C) in subparagraph (F)—

18 (i) by striking “individuals with other
19 barriers to educational achievement, in-
20 cluding”; and

21 (ii) by striking the period and insert-
22 ing “; and”; and

23 (D) by inserting after subparagraph (F)
24 the following:

1 “(G) individuals with other barriers to edu-
2 cational achievement, as determined by the
3 State.”;

4 (11) by inserting after paragraph (27) (as so
5 redesignated) the following:

6 “(28) SUPPORTIVE SERVICES.—The term ‘sup-
7 portive services’ means services such as transpor-
8 tation, child care, dependent care, and needs-based
9 payments, that are necessary to enable an individual
10 to participate in activities authorized under this
11 Act.”;

12 (12) in paragraph (29) (as so redesignated), by
13 striking “section 2” and inserting “section 2(a)(4)”;

14 (13) in paragraph (30) (as so redesignated)—

15 (A) by inserting “of subsection (a)” after
16 “paragraph (2)”; and

17 (B) by striking “paragraph (5)(A) of such
18 section” and inserting “paragraph (5)(A) of
19 such subsection”; and

20 (14) by amending paragraph (31)(A) (as so re-
21 designating) to read as follows:

22 “(A) offer a sequence of courses that—

23 “(i) provides individuals with the rig-
24 orous and challenging academic and tech-
25 nical knowledge and skills the individuals

1 need to prepare for further education and
2 for careers (other than careers requiring a
3 master's or doctoral degree) in current or
4 emerging employment sectors;

5 “(ii) may include the provision of
6 skills or courses necessary to enroll in a se-
7 quence of courses that meet the require-
8 ments of this subparagraph; and

9 “(iii) provides, at the postsecondary
10 level, for a 1-year certificate, an associate
11 degree, or industry recognized credential;
12 and”.

13 **SEC. 4. TRANSITION PROVISIONS.**

14 Section 4 (20 U.S.C. 2303) is amended—

15 (1) by striking “the Carl D. Perkins Vocational
16 and Applied Technology Education Act” and insert-
17 ing “the ‘Carl D. Perkins Vocational and Technical
18 Education Act of 1998’ ”; and

19 (2) by striking “the Carl D. Perkins Vocational
20 and Applied Technology Education Amendments of
21 1998” and inserting “the Vocational and Technical
22 Education for the Future Act. Each eligible agency
23 shall be assured 1 full fiscal year for transition, to
24 plan for and implement the requirements of this
25 Act”.

1 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 8 (20 U.S.C. 2307) is amended to read as
3 follows:

4 **“SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

5 “There is authorized to be appropriated to carry out
6 this Act (other than subsection (a), (b), and (c) of section
7 114, and sections 117 and 118) \$1,307,000,000 for fiscal
8 year 2006 and such sums as may be necessary for each
9 of fiscal years 2007 through 2011.”.

10 **SEC. 6. PROHIBITIONS.**

11 (a) IN GENERAL.—The Carl D. Perkins Vocational
12 and Technical Education Act of 1998 (20 U.S.C. 2301
13 et seq.) is amended by adding after section 8 the following
14 new section:

15 **“SEC. 9. PROHIBITIONS.**

16 “(a) LOCAL CONTROL.—Nothing in this Act shall be
17 construed to authorize an officer or employee of the Fed-
18 eral government to mandate, direct, or control a State,
19 local educational agency, or school’s curriculum, program
20 of instruction, or allocation of State or local resources, or
21 mandate a State or any subdivision thereof to spend any
22 funds or incur any costs not paid for under this Act.

23 “(b) NO PRECLUSION OF OTHER ASSISTANCE.—Any
24 State that declines to submit an application to the Sec-
25 retary for assistance under this Act shall not be precluded

1 from applying for assistance under any other program ad-
2 ministered by the Secretary.

3 “(c) PROHIBITION ON REQUIRING FEDERAL AP-
4 PROVAL OR CERTIFICATION OF STANDARDS.—Notwith-
5 standing any other provision of Federal law, no State shall
6 be required to have academic and vocational and technical
7 content or student academic and vocational and technical
8 achievement standards approved or certified by the Fed-
9 eral government, in order to receive assistance under this
10 Act.”.

11 (b) TABLE OF CONTENTS AMENDMENT.—The table
12 of contents in section 1(b) is amended by inserting after
13 the item relating to section 8 the following:

“Sec. 9. Prohibitions.”.

14 **SEC. 7. ALLOTMENT AND ALLOCATION TO STATES.**

15 (a) ALLOTMENT FOR NATIONAL ACTIVITIES FOR
16 2006.—Section 111(a)(1) (20 U.S.C. 2321(a)(1)) is
17 amended to read as follows:

18 “(1) RESERVATIONS.—From the sum appro-
19 priated under section 8 for each fiscal year, the Sec-
20 retary shall reserve—

21 “(A) 0.12 percent to carry out section 115;

22 “(B) 1.50 percent to carry out section 116,

23 of which—

24 “(i) 1.25 percent of the sum shall be
25 available to carry out section 116(b); and

1 “(ii) 0.25 percent of the sum shall be
2 available to carry out section 116(h); and
3 “(C) 0.54 percent to carry out section
4 114(d).”.

5 (b) MINIMUM ALLOTMENTS.—Section 111(a) (20
6 U.S.C. 2321(a)) is further amended—

7 (1) in paragraph (3), by striking “(or in the
8 case of fiscal year 1999” and all that follows
9 through “Amendments of 1998)” each place it ap-
10 pears and inserting “(or in the case of fiscal year
11 2006 only, under this section and under title II of
12 this Act, as such section and title were in effect on
13 the day before the date of enactment of the Voca-
14 tional and Technical Education for the Future
15 Act)”;

16 (2) by amending paragraph (4)(A) to read as
17 follows:

18 “(A) IN GENERAL.—No State shall receive
19 an allotment under this section for a fiscal year
20 that is less than the allotment the State re-
21 ceived for fiscal year 2005 under this section
22 and under title II of this Act (as such section
23 and title were in effect on the day before the
24 date of enactment of the Vocational and Tech-
25 nical Education for the Future Act).”.

1 (c) WITHIN STATE ALLOCATION.—Section 112 (20
2 U.S.C. 2322) is amended—

3 (1) by amending subsection (a) to read as fol-
4 lows:

5 “(a) ALLOCATION FORMULA.—From the amount al-
6 lotted to each State under section 111 for a fiscal year,
7 the State board (hereinafter referred to as the ‘eligible
8 agency’) shall allocate such amount as follows:

9 “(1) Subject to paragraph (4), not less than 88
10 percent shall be made available for distribution
11 under section 131 or 132, of which the eligible agen-
12 cy shall first make available for the activities de-
13 scribed in section 135(b)(3) not less than the
14 amount allotted in fiscal year 2005 to such eligible
15 agency under title II of this Act (as such title was
16 in effect on the day before the date of enactment of
17 the Vocational and Technical Education for the Fu-
18 ture Act), reduced by the percentage by which the
19 amount allotted to the State under section 111 for
20 the fiscal year is less than the amount allotted under
21 such section to such State for fiscal year 2005. Of
22 the remainder of the 88 percent, not more than 10
23 percent may be used in accordance with subsection
24 (c).

1 “(2) Subject to paragraph (4), not more than
2 10 percent shall be made available to carry out State
3 leadership activities described in section 124, of
4 which—

5 “(A) an amount equal to not more than 1
6 percent of the amount allotted to the State
7 under section 111 for the fiscal year shall be
8 made available to serve individuals in State in-
9 stitutions, such as State correctional institu-
10 tions and institutions that serve individuals
11 with disabilities; and

12 “(B) not less than \$60,000 and not more
13 than \$150,000 shall be available for services
14 that prepare individuals for nontraditional
15 fields.

16 “(3) An amount equal to not more than 2 per-
17 cent, or \$250,000, whichever is greater, shall be
18 made available for administration of the State plan,
19 which may be used for the costs of—

20 “(A) developing the State plan;

21 “(B) reviewing the local plan;

22 “(C) monitoring and evaluating program
23 effectiveness;

24 “(D) assuring compliance with all applica-
25 ble Federal laws; and

1 “(E) providing technical assistance.

2 “(4) If the amount allocated for any fiscal year
3 under paragraph (2) shall be less than the amount
4 allocated under such paragraph for fiscal year 2005,
5 additional amounts may be made available from the
6 amount allocated under paragraph (1) for the pur-
7 poses described in paragraph (2). If such additional
8 amounts are made available under this paragraph,
9 the percentage of the total amount allotted under
10 section 111 that is allocated for the purposes de-
11 scribed in paragraph (2) shall not exceed the per-
12 centage of the total amount allotted under section
13 111 for fiscal year 2005 that was allocated under
14 paragraph (2) for fiscal year 2005.”; and

15 (2) in subsection (c)—

16 (A) in paragraph (1)—

17 (i) in subparagraph (B), by striking
18 the semicolon and inserting “; and”;

19 (ii) in subparagraph (C), by striking
20 “; and” and inserting a period; and

21 (iii) by striking subparagraph (D);

22 and

23 (B) in paragraph (2), by striking “through
24 (D)” and inserting “through (C)”.

1 **SEC. 8. ACCOUNTABILITY.**

2 (a) PURPOSE.—Section 113(a) (20 U.S.C. 2323(a))
3 is amended—

4 (1) by striking “establish a State” and insert-
5 ing “support a State and local”; and

6 (2) by inserting “and its eligible recipients”
7 after “effectiveness of the State”.

8 (b) STATE PERFORMANCE MEASURES.—Section
9 113(b) (20 U.S.C. 2323(b)) is amended—

10 (1) in paragraph (2)—

11 (A) by redesignating subparagraphs (B)
12 through (D) as subparagraphs (C) through (E),
13 respectively;

14 (B) in subparagraph (A)—

15 (i) in the subparagraph heading, by
16 inserting “FOR SECONDARY STUDENTS”
17 after “PERFORMANCE”;

18 (ii) by inserting “of secondary stu-
19 dents that are, to the extent practicable,
20 valid and reliable and” after “indicators of
21 performance”;

22 (iii) in clause (i), by striking “State
23 established academic,” and inserting “aca-
24 demic content and achievement standards,
25 as established by the State under section
26 1111(b)(1) of the Elementary and Sec-

1 ondary Education Act of 1965 (20 U.S.C.
2 6311(b)(1)),”;

3 (iv) in clause (ii)—

4 (I) by inserting “under State law
5 (including recognized alternative
6 standards for individuals with disabil-
7 ities)” after “recognized equivalent” ;
8 and

9 (II) by striking “, or a postsec-
10 ondary degree or credential”;

11 (v) by amending clause (iii) to read as
12 follows:

13 “(iii) Student graduation rates (as de-
14 scribed in section 111(b)(2)(C)(vi) of the
15 Elementary and Secondary Education Act
16 of 1965 (20 U.S.C. 6311(b)(2)(C)(vi))).”;

17 (vi) by redesignating clause (iv) as
18 clause (v) and inserting after clause (iii)
19 the following:

20 “(iv) Placement in postsecondary edu-
21 cation or advanced training, placement in
22 military service, or placement in employ-
23 ment.”; and

1 (vii) in clause (v) (as so redesignated),
2 by striking “training and employment”
3 and inserting “fields”;

4 (C) by inserting after subparagraph (A)
5 the following:

6 “(B) CORE INDICATORS OF PERFORMANCE
7 FOR POSTSECONDARY STUDENTS.—Each eligi-
8 ble agency shall identify in the State plan core
9 indicators of performance of postsecondary stu-
10 dents that are, to the extent practicable, valid
11 and reliable, and that include, at a minimum,
12 measures of each of the following:

13 “(i) Student attainment of challenging
14 academic and vocational and technical skill
15 proficiencies.

16 “(ii) Student retention in postsec-
17 ondary education, attainment of an asso-
18 ciate degree or postsecondary credential, or
19 transfer to a baccalaureate degree pro-
20 gram.

21 “(iii) Placement in military service or
22 placement or retention in employment.

23 “(iv) Student participation in and
24 completion of vocational and technical edu-
25 cation programs in nontraditional fields.”;

1 (D) in subparagraph (C) (as so redesignated), by striking “under the title” and inserting “under this title”; and

2
3
4 (E) in subparagraph (D) (as so redesignated), by inserting “vocational and technical education” after “has developed State”; and

5
6
7 (2) in paragraph (3)—

8 (A) by amending the paragraph heading to read as follows:

9
10 “(3) STATE LEVELS OF PERFORMANCE.—”;

11 and

12 (B) in subparagraph (A)—

13 (i) in clause (i)—

14 (I) by striking “paragraph
15 (2)(A)” and inserting “subparagraphs
16 (A) and (B) of paragraph (2)”; and

17 (II) in subclause (II), by striking
18 “to continually” and all that follows
19 through “performance”, and inserting
20 “to make continuous and substantial
21 improvement in the academic and vo-
22 cational and technical achievement”;

23 (ii) by amending clause (v) to read as
24 follows:

1 “(v) AGREEMENT ON STATE AD-
2 JUSTED LEVELS OF PERFORMANCE FOR
3 SUBSEQUENT YEARS.—

4 “(I) 3rd and 4th program
5 years.—Prior to the third program
6 year covered by the State plan, the
7 Secretary and each eligible agency
8 shall reach agreement on the State
9 adjusted levels of performance for
10 each of the core indicators of perform-
11 ance for the third and fourth pro-
12 grams years covered by the State
13 plan, taking into account the factors
14 described in clause (vi).

15 “(II) 5th and 6th program
16 years.—Prior to the fifth program
17 year covered by the State plan, the
18 Secretary and each eligible agency
19 shall reach agreement on the State
20 adjusted levels of performance for
21 each of the core indicators of perform-
22 ance for the fifth and sixth programs
23 years covered by the State plan, tak-
24 ing into account the factors described
25 in clause (vi).

1 “(III) AGREEMENTS INCOR-
 2 PORATED INTO STATE PLAN.—The
 3 State adjusted levels of performance
 4 agreed to under this clause shall be
 5 considered the State adjusted levels of
 6 performance for the State for such
 7 years and shall be incorporated into
 8 the State plan.”;

9 (iii) in clause (vi)(II), by inserting
 10 “and substantial” after “continuous”; and

11 (iv) in clause (vii), by striking “under
 12 clause (iii) or (iv)” and inserting “under
 13 clause (iii) or (v)”.

14 (c) LOCAL LEVELS OF PERFORMANCE.—Section
 15 113(b) is further amended by adding at the end the fol-
 16 lowing:

17 “(4) LOCAL LEVELS OF PERFORMANCE.—

18 “(A) LOCAL ADJUSTED LEVELS OF PER-
 19 FORMANCE FOR CORE INDICATORS OF PER-
 20 FORMANCE.—

21 “(i) IN GENERAL.—Each eligible re-
 22 cipient shall establish in the local plan sub-
 23 mitted under section 134, levels of per-
 24 formance for each of the core indicators of
 25 performance described in paragraph (2)(A)

1 and (B), as appropriate for the eligible re-
2 cipient, for vocational and technical edu-
3 cation activities authorized under this title.
4 The levels of performance established
5 under this subparagraph shall, at a min-
6 imum—

7 “(I) be expressed in a percentage
8 or numerical form, so as to be objec-
9 tive, quantifiable, and measurable;
10 and

11 “(II) require the eligible recipient
12 to make continuous and substantial
13 improvement in the academic and vo-
14 cational and technical achievement of
15 vocational and technical education
16 students.

17 “(ii) IDENTIFICATION IN THE LOCAL
18 PLAN.—Each eligible recipient shall iden-
19 tify, in the local plan submitted under sec-
20 tion 134, levels of performance for each of
21 the core indicators of performance for the
22 first 2 program years covered by the local
23 plan.

24 “(iii) AGREEMENT ON LOCAL AD-
25 JUSTED LEVELS OF PERFORMANCE FOR

1 FIRST 2 YEARS.—The eligible agency and
2 each eligible recipient shall reach agree-
3 ment on the levels of performance for each
4 of the core indicators of performance, for
5 the first 2 program years covered by the
6 local plan, taking into account the levels
7 identified in the local plan under clause (ii)
8 and the factors described in clause (v). The
9 levels of performance agreed to under this
10 clause shall be considered to be the local
11 adjusted level of performance for the eligi-
12 ble recipient for such years and shall be in-
13 corporated into the local plan prior to the
14 approval of such plan.

15 “(iv) AGREEMENT ON LOCAL AD-
16 JUSTED LEVELS OF PERFORMANCE FOR
17 SUBSEQUENT YEARS.—

18 “(I) 3rd and 4th program
19 years.—Prior to the third program
20 year covered by the local plan, the eli-
21 gible agency and each eligible recipi-
22 ent shall reach agreement on the local
23 adjusted levels of performance for
24 each of the core indicators of perform-
25 ance for the third and fourth program

1 years covered by the local plan, taking
2 into account the factors described in
3 clause (v).

4 “(II) 5th and 6th program
5 years.—Prior to the fifth program
6 year covered by the local plan, the eli-
7 gible agency and each eligible recipi-
8 ent shall reach agreement on the local
9 adjusted levels of performance for
10 each of the core indicators of perform-
11 ance for the fifth and sixth program
12 years covered by the local plan, taking
13 into account the factors described in
14 clause (v).

15 “(III) AGREEMENTS INCOR-
16 PORATED INTO LOCAL PLAN.—The
17 local adjusted levels of performance
18 agreed to under this clause shall be
19 considered to be the local adjusted
20 levels of performance for the eligible
21 recipient for such years and shall be
22 incorporated into the local plan.

23 “(v) FACTORS.—The agreement de-
24 scribed in clause (iii) or (iv) shall take into
25 account—

1 “(I) how the levels of perform-
2 ance involved compare with the local
3 adjusted levels of performance estab-
4 lished for other eligible recipients tak-
5 ing into account factors including the
6 characteristics of participants when
7 the participants entered the program
8 and the services or instruction to be
9 provided; and

10 “(II) the extent to which such
11 levels of performance promote contin-
12 uous and substantial improvement on
13 the indicators of performance by such
14 eligible recipient.

15 “(vi) REVISIONS.—If unanticipated
16 circumstances arise with respect to an eli-
17 gible recipient resulting in a significant
18 change in the factors described in clause
19 (v)(II), the eligible recipient may request
20 that the local adjusted levels of perform-
21 ance agreed to under clause (iii) or (iv) be
22 revised. The eligible agency shall issue ob-
23 jective criteria and methods for making
24 such revisions.

1 “(B) LEVELS OF PERFORMANCE FOR AD-
2 DITIONAL INDICATORS.—Each eligible recipient
3 may identify in the local plan, local levels of
4 performance for any additional indicators of
5 performance. Such levels shall be considered to
6 be the local levels of performance for purposes
7 of this title.

8 “(C) LOCAL REPORT.—

9 “(i) CONTENT OF REPORT.—Each eli-
10 gible recipient that receives an allotment
11 under section 111 shall annually prepare
12 and submit to the eligible agency a report
13 regarding—

14 “(I) the progress of such recipi-
15 ent in achieving the local adjusted lev-
16 els of performance on the core indica-
17 tors of performance; and

18 “(II) in the case of an eligible re-
19 cipient that receives funds described
20 in section 112(a) for activities de-
21 scribed in section 135(b)(3), the
22 progress in achieving the local ad-
23 justed levels of performance on the
24 core indicators of performance with

1 respect to tech prep program partici-
2 pants.

3 “(ii) DATA.—Each eligible recipient
4 shall—

5 “(I) disaggregate data for each
6 of the indicators of performance under
7 section 113(b)(2) for the categories of
8 students enumerated under section
9 1111(b)(2)(C)(v)(II) of the Elemen-
10 tary and Secondary Education Act of
11 1965 that are served under this Act;
12 and

13 “(II) identify and quantify any
14 disparities or gaps in performance be-
15 tween any such category of students
16 and the performance of all students
17 served by the eligible recipient under
18 the Act.

19 “(iii) RULES FOR REPORTING OF
20 DATA.—The disaggregation of data under
21 clause (ii) shall be required except in a
22 case in which the number of students in a
23 category is insufficient to yield statistically
24 reliable information or in which the results

1 would reveal personally identifiable infor-
2 mation about an individual student.

3 “(iv) AVAILABILITY.—The report de-
4 scribed in clause (i) shall be made available
5 to the public through a variety of formats,
6 including electronically through the Inter-
7 net.”.

8 (d) STATE REPORT.—Section 113(c) (20 U.S.C.
9 2323(c)) is amended—

10 (1) by redesignating paragraphs (2) and (3) as
11 paragraphs (4) and (5), respectively, and inserting
12 after paragraph (1) the following:

13 “(2) DISAGGREGATION OF DATA.—Each eligible
14 agency under this subsection shall—

15 “(A) disaggregate data for each of the in-
16 dicators of performance under section 113(b)(2)
17 for the categories of students enumerated under
18 section 1111(b)(2)(C)(v)(II) of the Elementary
19 and Secondary Education Act of 1965 that are
20 served under this Act; and

21 “(B) identify and quantify any disparities
22 or gaps in performance between any such cat-
23 egory of students and the performance of all
24 students served by the eligible agency under the
25 Act.

1 “(3) RULES FOR REPORTING OF DATA.—The
2 disaggregation of data under paragraph (2) shall be
3 required except in a case in which the number of
4 students in a category is insufficient to yield statis-
5 tically reliable information or in which the results
6 would reveal personally identifiable information
7 about an individual student.”; and

8 (2) in paragraph (4) (as so redesignated)—

9 (A) by striking “special populations” and
10 inserting “each of the populations described in
11 section 3(25) and the populations described in
12 section 1111(h)(1)(C)(i) of the Elementary and
13 Secondary Education Act of 1965 (20 U.S.C.
14 6311(h)(1)(C)(i))”; and

15 (B) by striking “have made” and inserting
16 “has made”.

17 **SEC. 9. NATIONAL ACTIVITIES.**

18 (a) PROGRAM PERFORMANCE INFORMATION.—Sec-
19 tion 114(a)(3) (20 U.S.C. 2324(a)(3)) is amended by in-
20 serting “in the aggregate” after “international compari-
21 sons”.

22 (b) EVALUATION AND ASSESSMENT.—Section 114(c)
23 (20 U.S.C. 2324(c)) is amended—

24 (1) by amending paragraph (2) to read as fol-
25 lows:

1 “(2) INDEPENDENT ADVISORY PANEL.—The
2 Secretary shall appoint an independent advisory
3 panel, consisting of academic and vocational and
4 technical education educators, administrators, ex-
5 perts in evaluation, research, and assessment, rep-
6 resentatives of labor organizations, businesses, par-
7 ents, guidance and counseling professionals, and
8 other individuals with relevant expertise, to advise
9 the Secretary on the implementation of the assess-
10 ment described in paragraph (3), including the
11 issues to be addressed and the methodology of the
12 studies involved to ensure the assessment adheres to
13 the highest standards of quality. The advisory panel
14 shall transmit to the Secretary and to Congress an
15 independent analysis of the findings and rec-
16 ommendations resulting from such assessment. The
17 Federal Advisory Committee Act (5 U.S.C. App.)
18 shall not apply to the panel established under this
19 subsection.”;

20 (2) in paragraph (3)—

21 (A) in subparagraph (A), by inserting “the
22 implementation of the” after “and assessment
23 of”;

24 (B) in subparagraph (B)—

1 (i) by inserting “but shall not be lim-
2 ited to” after “paragraph (1) shall in-
3 clude”;

4 (ii) by striking clauses (i), (ii), (iv),
5 and (vii) and redesignating clauses (iii),
6 (v), (vi), and (viii) as clauses (i) through
7 (iv), respectively;

8 (iii) in clause (i) (as so redesignated),
9 by striking “, and academic, curricula in
10 vocational and technical education pro-
11 grams,” and inserting “education (such as
12 meeting State established teacher certifi-
13 cation or licensing requirements)”; and

14 (iv) in clause (ii) (as so redesign-
15 ated)—

16 (I) by striking “and employment
17 outcomes” and all that follows
18 through “including analyses of” and
19 inserting “and vocational and tech-
20 nical education achievement and em-
21 ployment outcomes of vocational and
22 technical education students, includ-
23 ing analyses of”;

24 (II) in subclause (I), by striking
25 “and tech-prep students” and insert-

1 ing “and students participating in the
2 activities described in section
3 135(b)(3)” ;

4 (III) in subclause (II), by strik-
5 ing “academic, and vocational and
6 technical, education” and inserting
7 “rigorous and challenging academic
8 and vocational and technical edu-
9 cation, including a review of the effect
10 of integrated rigorous and challenging
11 academic and vocational and technical
12 education on the achievement of stu-
13 dents”; and

14 (IV) in subclause (III), by insert-
15 ing “, particularly those in which
16 math and science skills are critical,”
17 after “high-skill careers”; and

18 (C) in subparagraph (C)—

19 (i) in clause (i)—

20 (I) by striking “the Committee
21 on Education and the Workforce of
22 the House of Representatives and the
23 Committee on Labor and Human Re-
24 sources of the Senate” and inserting
25 “Congress”; and

1 (II) by striking “2002” and in-
2 sserting “2009” both places it appears;
3 and

4 (ii) in clause (ii), by striking “the
5 Committee on Education and the Work-
6 force of the House of Representatives, the
7 Committee on Labor and Human Re-
8 sources of the Senate,” and inserting
9 “Congress”;

10 (3) in paragraph (5)(A)—

11 (A) by striking “to carry out research”
12 each place it appears, and inserting “to carry
13 out scientifically based research”;

14 (B) in clause (i), by inserting “scientific-
15 ically based” after “programs, including”;

16 (C) in clause (ii), by inserting “that are in-
17 tegrated with rigorous and challenging aca-
18 demic education” after “implementation of vo-
19 cational and technical education programs”;
20 and

21 (D) in clause (iii)(I), by inserting “and the
22 integration of those systems with the academic
23 education system” after “technical education
24 systems”;

25 (4) in paragraph (6)—

1 (A) by striking:

2 “(6) DEMONSTRATIONS AND DISSEMINATION.—

3 “(A) DEMONSTRATION PROGRAM.—The”,

4 and inserting:

5 “(6) DEMONSTRATIONS AND DISSEMINATION.—

6 The”; and

7 (B) by striking subparagraph (B); and

8 (5) in paragraph (8), by striking “this section”

9 and all that follows and inserting “subsections (a),

10 (b), and (c) of this section, such sums as may be

11 necessary for each of fiscal years 2006 through

12 2011.”

13 (c) INCENTIVE GRANTS FOR ELIGIBLE AGENCIES.—

14 Section 114 is further amended by adding at the end the

15 following new subsection:

16 “(d) INCENTIVE GRANTS FOR ELIGIBLE AGEN-

17 CIES.—

18 “(1) IN GENERAL.—From funds reserved under

19 section 111(a)(1)(C), the Secretary may award

20 grants to eligible agencies for exemplary perform-

21 ance in carrying out programs under this Act. Such

22 awards shall be based on an eligible agency exceed-

23 ing State adjusted levels of performance established

24 under section 113(b) and showing sustained or sig-

25 nificant improvement.

1 “(2) SPECIAL CONSIDERATION.—In awarding
2 these grants, the Secretary may consider—

3 “(A) an eligible agency’s success in effec-
4 tively developing connections between secondary
5 education and postsecondary education and
6 training;

7 “(B) an eligible agency’s integration of rig-
8 orous and challenging academic and technical
9 coursework; and

10 “(C) an eligible agency’s progress in hav-
11 ing special populations participating in voca-
12 tional and technical education meet State ad-
13 justed levels of performance.

14 “(3) USE OF FUNDS.—The funds awarded to
15 an eligible agency under this subsection may be used
16 to carry out any activities authorized under section
17 124, including demonstrations of innovative pro-
18 grams.”.

19 **SEC. 10. OUTLYING AREAS, NATIVE AMERICAN PROGRAMS,**
20 **AND TRIBALLY CONTROLLED INSTITUTIONS.**

21 (a) ASSISTANCE FOR THE OUTLYING AREAS.—Sec-
22 tion 115 (20 U.S.C. 2325) is amended to read as follows:

23 **“SEC. 115. ASSISTANCE FOR THE OUTLYING AREAS.**

24 “(a) OUTLYING AREAS.—From funds reserved pur-
25 suant to section 111(a)(1)(A), the Secretary shall—

1 “(1) make a grant in the amount of \$660,000
2 to Guam;

3 “(2) make a grant in the amount of \$350,000
4 to each of American Samoa and the Commonwealth
5 of the Northern Mariana Islands; and

6 “(3) make a grant in the amount of \$160,000
7 to the Republic of Palau.

8 “(b) REMAINDER.—Subject to the provisions of sub-
9 section (a), the Secretary shall make a grant of the re-
10 mainder of funds reserved pursuant to section
11 111(a)(1)(A), in equal proportion, to each of Guam,
12 American Samoa, and the Commonwealth of the Northern
13 Mariana Islands, for the purpose of providing direct voca-
14 tional and technical educational services, including—

15 “(1) teacher and counselor training and retrain-
16 ing;

17 “(2) curriculum development; and

18 “(3) the improvement of vocational and tech-
19 nical education and training programs in secondary
20 schools and institutions of higher education, or im-
21 proving cooperative education programs involving
22 both secondary schools and institutions of higher
23 education.

24 “(c) RESTRICTION.—The Republic of Palau shall
25 cease to be eligible to receive funding under this section

1 upon entering into an agreement for extension of United
2 States educational assistance under the Compact of Free
3 Association after the date of enactment of the Vocational
4 and Technical Education for the Future Act.”.

5 (b) NATIVE AMERICAN PROGRAM.—Section 116 (20
6 U.S.C. 2326) is amended—

7 (1) in subsection (a), by inserting a period at
8 the end of paragraph (5); and

9 (2) in subsection (b)—

10 (A) in paragraph (1), by striking “sub-
11 section (d)” and inserting “subsection (c)”; and

12 (B) in paragraph (2), by striking “(other
13 than in subsection (i))”.

14 (c) TRIBALLY CONTROLLED INSTITUTIONS.—Section
15 117 (20 U.S.C. 2327) is amended—

16 (1) by amending subsection (b) to read as fol-
17 lows:

18 “(b) USES OF GRANTS.—Amounts made available
19 under this section shall be used for vocational and tech-
20 nical education programs for Indian students and for in-
21 stitutional support costs of the grant, including the ex-
22 penses described in subsection (e).”;

23 (2) in subsection (c), by inserting after para-
24 graph (2) the following:

1 “(3) INDIRECT COSTS.—Notwithstanding any
2 other provision of law or regulation, the Secretary
3 shall not require the use of a restricted indirect cost
4 rate for grants issued under this section.”;

5 (3) by striking subsection (g) and redesignating
6 subsections (h) and (i) as subsections (g) and (h),
7 respectively; and

8 (4) in subsection (h) (as so redesignated)—

9 (A) by striking “\$4,000,000 for fiscal year
10 1999 and”; and

11 (B) by striking “the 4 succeeding fiscal
12 years” and inserting “fiscal years 2006 through
13 2011”.

14 (d) OCCUPATIONAL AND EMPLOYMENT INFORMA-
15 TION.—Section 118 (20 U.S.C. 2328) is amended—

16 (1) by amending subsection (b) to read as fol-
17 lows:

18 “(b) STATE LEVEL ACTIVITIES.—

19 “(1) DESIGNATED ENTITY.—In order for a
20 State to receive a grant under this section, the eligi-
21 ble agency and the Governor of the State shall joint-
22 ly designate an entity in the State responsible for
23 conducting the activities in this subsection.

24 “(2) APPLICATION.—The jointly designated
25 agency shall submit an application to the Secretary

1 at the same time the State submits its state plan
2 under section 122. The application shall be in such
3 a manner and be accompanied by such information
4 as the Secretary may reasonably require. At a min-
5 imum, the application shall describe how the jointly
6 designated agency will assist the eligible agency in
7 meeting its adjusted levels of performance under sec-
8 tion 113(b).

9 “(3) ACTIVITIES.—The jointly designated agen-
10 cy shall conduct activities—

11 “(A) to provide support for career guid-
12 ance and academic counseling programs de-
13 signed to promote improved career and edu-
14 cation decision making by students (and par-
15 ents, as appropriate) regarding education and
16 training options and preparations for high skill,
17 high wage occupations;

18 “(B) to make available to students, par-
19 ents, teachers, administrators, and counselors,
20 and improve accessibility to, information and
21 planning resources that relate academic and vo-
22 cational and technical educational preparation
23 to career goals and expectations;

24 “(C) to equip teachers, administrators, and
25 counselors with the knowledge, skills, and occu-

1 pational information needed to assist students
2 and parents with educational and other postsec-
3 ondary opportunities and education financing;

4 “(D) to assist appropriate State entities in
5 tailoring resources and training for use by such
6 entities;

7 “(E) to improve coordination and commu-
8 nication among administrators and planners of
9 programs authorized by this Act and by section
10 15 of the Wagner-Peyser Act (29 U.S.C. 49l-
11 2) at the Federal, State, and local levels to en-
12 sure nonduplication of efforts and the appro-
13 priate use of shared information and data; and

14 “(F) to provide ongoing means for cus-
15 tomers, such as students and parents, to pro-
16 vide comments and feedback on products and
17 services and to update resources, as appro-
18 priate, to better meet customer requirements.”;

19 (2) in subsection (e)(1), by striking “an identi-
20 fication” and inserting “a description”; and

21 (3) in subsection (f), by striking “1999 through
22 2003” and inserting “2006 through 2011”.

23 **SEC. 11. STATE ADMINISTRATION.**

24 Section 121 (20 U.S.C. 2341) is amended to read as
25 follows:

1 **“SEC. 121. STATE ADMINISTRATION.**

2 “(a) **ELIGIBLE AGENCY RESPONSIBILITIES.**—The re-
3 sponsibilities of an eligible agency under this title shall
4 include—

5 “(1) coordination of the development, submis-
6 sion, and implementation of the State plan, and the
7 evaluation of the program, services, and activities as-
8 sisted under this title, including preparation for non-
9 traditional fields;

10 “(2) consultation with the Governor and appro-
11 priate agencies, groups, and individuals including
12 parents, students, teachers, representatives of busi-
13 nesses, labor organizations, eligible recipients, State
14 and local officials, and local program administrators,
15 involved in the planning, administration, evaluation,
16 and coordination of programs funded under this
17 title;

18 “(3) convening and meeting as an eligible agen-
19 cy (consistent with State law and procedure for the
20 conduct of such meetings) at such time as the eligi-
21 ble agency determines necessary to carry out the eli-
22 gible agency’s responsibilities under this title, but
23 not less than four times annually; and

24 “(4) the adoption of such procedures as the eli-
25 gible agency considers necessary to—

1 “(A) implement State level coordination
2 with the activities undertaken by the State
3 boards under section 111 of Public Law 105–
4 220; and

5 “(B) make available to the service delivery
6 system under section 121 of Public Law 105–
7 220 within the State a listing of all school drop-
8 out, postsecondary, and adult programs assisted
9 under this title.

10 “(b) EXCEPTION.—Except with respect to the re-
11 sponsibilities set forth in subsection (a), the eligible agen-
12 cy may delegate any of the other responsibilities of the
13 eligible agency that involve the administration, operation,
14 supervision of activities assisted under this title, in whole
15 or in part, to one or more appropriate State agencies.”.

16 **SEC. 12. STATE PLAN.**

17 Section 122 (20 U.S.C. 2342) is amended—

18 (1) in subsection (a)—

19 (A) in paragraph (1), by striking “5-year
20 period” and inserting “6-year period”;

21 (B) in paragraph (2)(B), by striking “5
22 year State plan” and inserting “6-year period”;
23 and

24 (C) in paragraph (3), by striking “(includ-
25 ing employers, labor organizations, and par-

1 ents)” and inserting “(including charter school
2 authorizers and organizers, employers, labor or-
3 ganizations, parents, students, and community
4 organizations)”;

5 (2) in subsection (b)(1), by striking “teachers,
6 eligible recipients, parents, students, interested com-
7 munity members” and inserting “academic and vo-
8 cational and technical education teachers, eligible re-
9 cipients, charter school authorizers and organizers,
10 parents, students, interested community members
11 (including parent and community organizations), in-
12 stitutions of higher education”;

13 (3) in subsection (c)—

14 (A) in paragraph (1)—

15 (i) by redesignating subparagraphs
16 (A) through (D) as subparagraphs (B)
17 through (E), respectively, and inserting be-
18 fore such subparagraphs (as so redesign-
19 nated) the following:

20 “(A) the development of model sequences
21 of courses for vocational and technical content
22 areas that—

23 “(i) incorporate both secondary and
24 postsecondary education elements;

1 “(ii) include rigorous and challenging
2 academic content and vocational and tech-
3 nical content in a coordinated, nonduplica-
4 tive progression of courses;

5 “(iii) lead to a postsecondary 1-year
6 certificate, associate or baccalaureate de-
7 gree, or a proficiency credential in conjunc-
8 tion with a secondary school diploma; and

9 “(iv) may be adopted by local edu-
10 cational agencies and postsecondary insti-
11 tutions to be offered as an option to stu-
12 dents (and their parents as appropriate),
13 when choosing future coursework;”;

14 (ii) in subparagraph (B) (as so redes-
15 ignated), by inserting “and how the eligible
16 agency will distribute information identi-
17 fying eligible recipients that offer elements
18 of the model sequences of courses” before
19 the semicolon;

20 (iii) by amending subparagraph (C)
21 (as so redesignated) to read as follows:

22 “(C) the criteria that will be used by the
23 eligible agency to evaluate and approve eligible
24 recipients for funds under this title, including
25 criteria to assess the extent to which the local

1 plan will promote continuous and substantial
2 improvement in academic achievement and tech-
3 nical skill attainment;”;

4 (iv) in subparagraph (D) (as so redesi-
5 gnated)—

6 (I) by inserting “, both academi-
7 cally and technically,” after “stu-
8 dents”; and

9 (II) by striking “; and” and in-
10 sserting “, and how participating stu-
11 dents will be made aware of such op-
12 portunities;”;

13 (v) in subparagraph (E) (as so redesi-
14 gnated), by inserting “aligned with rig-
15 orous and challenging academic content”
16 before the semicolon; and

17 (vi) by inserting after subparagraph
18 (E) (as so redesignated) the following:

19 “(F) the process through which the eligible
20 agency will develop the secondary or postsec-
21 ondary elements of the model sequences of
22 courses described in subparagraph (A);

23 “(G) the role that any eligible recipients
24 successfully implementing the activities de-
25 scribed in section 135(b)(3) will play in assist-

1 ing other eligible recipients in establishing
2 agreements and plans for coordinating the of-
3 fering of model sequences of courses to students
4 at both the secondary and postsecondary levels;

5 “(H) how funds will be used effectively to
6 link secondary and postsecondary academic and
7 vocational and technical education in a manner
8 that increases student academic and vocational
9 and technical achievement; and

10 “(I) how the eligible agency will report the
11 integration of rigorous and challenging aca-
12 demics in vocational and technical education
13 programs in order to adequately evaluate the
14 quality of such integration;”;

15 (B) by amending paragraph (2) to read as
16 follows:

17 “(2) describes how comprehensive professional
18 development (including initial teacher preparation
19 and activities that support recruitment) for voca-
20 tional and technical, academic, guidance, and admin-
21 istrative personnel will be provided, especially profes-
22 sional development that—

23 “(A) promotes the integration of rigorous
24 and challenging academic and vocational and
25 technical education curriculum development;

1 “(B) increases the percentage of teachers
2 that meet teacher certification or licensing re-
3 quirements;

4 “(C) increases the academic and industry
5 knowledge of vocational and technical education
6 teachers; and

7 “(D) encourages applied learning that con-
8 tributes to the academic and vocational and
9 technical knowledge of the student;”;

10 (C) in paragraph (3), by inserting “aca-
11 demic and vocational and technical” after “par-
12 ents,”;

13 (D) in paragraph (5)(A)—

14 (i) by inserting “(especially as per-
15 taining to math, science, and technology)”
16 after “academic and technical skills”; and

17 (ii) by striking “core academic, and
18 vocational and technical, subjects” and in-
19 serting “core academic subjects (as defined
20 in section 9101(11) of the Elementary and
21 Secondary Education Act of 1965 (20
22 U.S.C. 7801(11))), and vocational and
23 technical subjects”;

24 (E) in paragraph (11), by inserting “and
25 technology” after “equipment”;

1 (F) by striking paragraph (19) and redesi-
2 gnating paragraphs (12) through (18) as para-
3 graphs (13) through (19), respectively;

4 (G) by inserting after paragraph (11) the
5 following:

6 “(12) describes how the eligible agency will en-
7 sure that any entity in the State that purchases
8 equipment with funds under this Act will dispose of
9 that equipment in such a manner as to ensure that
10 any personally identifiable information contained in
11 that equipment will be totally destroyed prior to, or
12 as part of, the disposition;”.

13 (H) in paragraph (18) (as so redesign-
14 ated), by striking “training and employment”
15 and inserting “fields”; and

16 (I) by redesignating paragraphs (20) and
17 (21) as paragraphs (22) and (23), respectively,
18 and inserting after paragraph (18) the fol-
19 lowing:

20 “(20) describes how the eligible agency will
21 award grants, on a competitive basis or on the basis
22 of a formula determined by the eligible agency, using
23 funds described in section 112 (a) (1) for activities
24 described in section 135(b)(3);

1 “(21) describes how the eligible agency will
2 carry out measurable, sustainable, and coordinated
3 tech-prep activities in the State (as described in sec-
4 tion 135(b)(3)), with funds allocated under section
5 112(a), that are developed in consultation with the
6 entities described in subsection (b)(1) and that effec-
7 tively prepare students for post-secondary education
8 or employment in high demand occupations through
9 a seamless program of study consisting of appro-
10 prium advanced academic and technical courses that
11 include a minimum of 2 years of secondary school
12 preceding graduation and a minimum of 2 years of
13 higher education or an apprenticeship program of at
14 least 2 years following secondary instruction;” and
15 (4) by striking subsections (d) and (f) and re-
16 designating subsection (e) as subsection (d).

17 **SEC. 13. IMPROVEMENT PLANS.**

18 Section 123 (20 U.S.C. 2343) is amended to read as
19 follows:

20 **“SEC. 123. IMPROVEMENT PLANS.**

21 “(a) STATE PROGRAM IMPROVEMENT.—

22 “(1) PLAN.—If a State fails to meet the agreed
23 upon State adjusted levels of performance required
24 under section 113(b)(3), the eligible agency shall de-
25 velop and implement a program improvement plan

1 (with special consideration to performance gaps
2 identified under section 113(c)(2)) in consultation
3 with the appropriate agencies, individuals, and orga-
4 nizations for the first program year succeeding the
5 program year in which the eligible agency failed to
6 meet the State adjusted levels of performance, in
7 order to avoid a sanction under paragraph (3).

8 “(2) TECHNICAL ASSISTANCE.—If the Sec-
9 retary determines that an eligible agency is not
10 properly implementing the eligible agency’s respon-
11 sibilities under section 122, or is not making sub-
12 stantial progress in meeting the purposes of this
13 Act, based on the State’s adjusted levels of perform-
14 ance, the Secretary shall work with the eligible agen-
15 cy to implement improvement activities consistent
16 with the requirements of this Act.

17 “(3) SUBSEQUENT ACTION.—

18 “(A) IN GENERAL.—If an eligible agency
19 fails to meet the State adjusted levels of per-
20 formance and the purposes of this Act, has not
21 implemented an improvement plan as described
22 in paragraph (1), has shown no improvement
23 within 1 year after implementing an improve-
24 ment plan as described in paragraph (1), or has
25 failed to meet the State adjusted levels of per-

1 formance for 2 or more consecutive years, the
2 Secretary may, after notice and opportunity for
3 a hearing, withhold from the eligible agency all,
4 or a portion of, the eligible agency's allotment
5 under this title.

6 “(B) WAIVER FOR EXCEPTIONAL CIR-
7 CUMSTANCES.—The Secretary may waive the
8 sanction in subparagraph (A) due to exceptional
9 or uncontrollable circumstances, such as a nat-
10 ural disaster or a precipitous and unforeseen
11 decline in the financial resources of the State.

12 “(4) FUNDS RESULTING FROM REDUCED AL-
13 LOTMENTS.—

14 “(A) IN GENERAL.—The Secretary shall
15 use funds withheld under paragraph (3) for a
16 State served by an eligible agency, to provide
17 (through alternative arrangements) services and
18 activities within the State to meet the purposes
19 of this Act.

20 “(B) REDISTRIBUTION.—If the Secretary
21 cannot satisfactorily use funds withheld under
22 paragraph (3), then the amount of funds re-
23 tained by the Secretary as a result of a reduc-
24 tion in an allotment made under paragraph (3)

1 shall be redistributed to other eligible agencies
2 in accordance with section 111.

3 “(b) LOCAL PROGRAM IMPROVEMENT.—

4 “(1) LOCAL EVALUATION.—Each eligible agen-
5 cy shall evaluate annually, using the local adjusted
6 levels of performance described in section 113(b)(4),
7 the vocational and technical education activities of
8 each eligible recipient receiving funds under this
9 title.

10 “(2) PLAN.—

11 “(A) IN GENERAL.—If, after reviewing the
12 evaluation, the eligible agency determines that
13 an eligible recipient is not making substantial
14 progress in achieving the local adjusted levels of
15 performance, or that an eligible recipient dem-
16 onstrates under section 113(b)(4)(C) persistent
17 or a widening of performance gaps between
18 multiple categories of students served by the eli-
19 gible recipient in comparison to all students in
20 the State served under the Act, the eligible
21 agency shall—

22 “(i) conduct an assessment of the
23 educational needs that the eligible recipient
24 shall address to overcome local perform-
25 ance deficiencies;

1 “(ii) enter into an improvement plan
2 agreement with an eligible recipient based
3 on the results of the assessment, for the
4 first program year succeeding the program
5 year in which the eligible recipient failed to
6 meet the local adjusted levels of perform-
7 ance, which plan shall demonstrate how
8 the local performance deficiencies will be
9 corrected and include strategies for profes-
10 sional development and instructional and
11 other programmatic innovations of dem-
12 onstrated effectiveness, giving special con-
13 sideration to performance gaps identified
14 under section 113(b)(4)(C); and

15 “(iii) conduct regular evaluations of
16 the progress being made toward reaching
17 the local adjusted levels of performance as
18 described in section 113(b)(4) and
19 progress on implementing the improvement
20 plan.

21 “(B) CONSULTATION.—The eligible agency
22 shall conduct the activities described in para-
23 graph (2) in consultation with teachers, par-
24 ents, other school staff, appropriate agencies,

1 and other appropriate individuals and organiza-
2 tions.

3 “(3) TECHNICAL ASSISTANCE.—If the eligible
4 agency determines that an eligible recipient is not
5 properly implementing the eligible recipient’s respon-
6 sibilities under section 134, or is not making sub-
7 stantial progress in meeting the purpose of this Act,
8 based on the local adjusted levels of performance,
9 the eligible agency shall provide technical assistance
10 to the eligible recipient to assist such recipient in
11 carrying out the improvement activities consistent
12 with the requirements of this Act.

13 “(4) SUBSEQUENT ACTION.—

14 “(A) IN GENERAL.—If an eligible recipient
15 fails to meet the local adjusted levels of per-
16 formance as described in section 113(b)(4) and
17 the purposes of this Act, has not implemented
18 an improvement plan as described in paragraph
19 (2), has shown no improvement within 1 year
20 after implementing an improvement plan as de-
21 scribed in paragraph (2), or has failed to meet
22 the local adjusted levels of performance for 2 or
23 more consecutive years, the eligible agency may,
24 after notice and opportunity for a hearing,
25 withhold from the eligible recipient all, or a por-

1 tion of, the eligible recipient’s allotment under
2 this title.

3 “(B) WAIVER FOR EXCEPTIONAL CIR-
4 CUMSTANCES.—The eligible agency may waive
5 the sanction under this paragraph due to excep-
6 tional or uncontrollable circumstances such as a
7 natural disaster or a precipitous and unforeseen
8 decline in the financial resources of the State.

9 “(5) FUNDS RESULTING FROM REDUCED AL-
10 LOTMENTS.—The eligible agency shall use funds
11 withheld under paragraph (4) to continue to provide
12 (through alternative arrangements) services and ac-
13 tivities in the area served by such recipient to meet
14 the purpose of this Act.”.

15 **SEC. 14. STATE LEADERSHIP ACTIVITIES.**

16 Section 124 (20 U.S.C. 2344) is amended—

17 (1) in subsection (b)—

18 (A) in paragraph (1), by striking “learn-
19 ing” and inserting “education”;

20 (B) in paragraph (2)—

21 (i) by inserting “, and the required
22 math and science education,” after “use of
23 technology in vocational and technical edu-
24 cation”; and

25 (ii) in subparagraph (B)—

1 (I) by inserting “(including the
2 math and science knowledge that pro-
3 vides a strong basis for such skills)”
4 after “technical skills”; and

5 (II) by striking “and tele-
6 communications field” and inserting
7 “fields, including nontraditional
8 fields”;

9 (C) in paragraph (3)—

10 (i) by inserting “at the secondary and
11 postsecondary levels” after “academic,
12 guidance, and administrative personnel”;

13 (ii) by redesignating subparagraphs
14 (A) through (D) as subparagraphs (C)
15 through (F), respectively, and inserting be-
16 fore such subparagraphs (as so redesi-
17 gnated) the following:

18 “(A) will provide inservice and preservice
19 training for vocational and technical education
20 teachers in the integration and use of rigorous
21 and challenging academics with vocational and
22 technical subjects;

23 “(B) are high quality, sustained, intensive,
24 and classroom-focused in order to have a posi-
25 tive and lasting impact on classroom instruction

1 and the teacher’s performance in the classroom,
2 and are not 1-day or short-term workshops or
3 conferences;”;

4 (iii) in subparagraph (C) (as so redesi-
5 gnated)—

6 (I) by inserting “scientifically
7 based” after “based on”; and

8 (II) by striking “; and” and in-
9 serting a semicolon;

10 (iv) in subparagraph (D) (as so redesi-
11 gnated), by striking “assist students in
12 meeting” and inserting “improve student
13 achievement in order to meet”; and

14 (v) by amending subparagraph (E)
15 (as so redesignated) to read as follows:

16 “(E) will support education programs for
17 teachers of vocational and technical education
18 in public schools and other public school per-
19 sonnel who are involved in the direct delivery of
20 educational services to vocational and technical
21 education students to ensure that teachers and
22 personnel—

23 “(i) stay current with the needs, ex-
24 pectations, and methods of industry;

1 “(ii) meet teacher certification or li-
2 censing requirements, especially in core
3 academic subjects as defined in section
4 9101(11) of the Elementary and Sec-
5 ondary Education Act of 1965 (20 U.S.C.
6 7801(11));

7 “(iii) effectively develop integrated
8 rigorous and challenging academic and vo-
9 cational and technical education cur-
10 riculum;

11 “(iv) develop a high level of academic
12 and industry knowledge and skills nec-
13 essary to provide effective instruction in
14 vocational and technical education; and

15 “(v) effectively use applied learning
16 that contributes to the academic and voca-
17 tional and technical knowledge of the stu-
18 dent;”;

19 (D) in paragraph (4), by striking “integra-
20 tion of academics” and all that follows through
21 “core academic,” and inserting “provision of
22 rigorous and challenging academics that are in-
23 tegrated with vocational and technical education
24 to ensure achievement in the core academic sub-
25 jects (as defined in section 9101(11) of the Ele-

1 mentary and Secondary Education Act of 1965
2 (20 U.S.C. 7801(11))),”;

3 (E) in paragraph (5), by striking “training
4 and employment” and inserting “fields”;

5 (F) in paragraph (6), by inserting “and
6 complete a model sequence of courses, as de-
7 scribed in section 122(c)(1)(A)” after “tech-
8 nical skills”;

9 (G) in paragraph (7), by striking “; and”
10 and inserting a semicolon;

11 (H) in paragraph (8), by striking the pe-
12 riod and inserting “; and”; and

13 (I) by inserting after paragraph (8) the
14 following:

15 “(9) technical assistance for eligible recipi-
16 ents.”; and

17 (2) in subsection (c)—

18 (A) by striking paragraph (1), and redesignig-
19 nating paragraphs (2) through (10) as para-
20 graphs (1) through (9), respectively, and para-
21 graphs (11) and (12) as paragraphs (12) and
22 (13), respectively;

23 (B) in paragraph (9) (as so redesignated),
24 by inserting “that prepare individuals academi-
25 cally and technically for current and emerging

1 occupations in demand” after “education
2 courses”; and

3 (C) by inserting after paragraph (9) (as so
4 redesignated) the following:

5 “(10) awarding incentive grants to eligible re-
6 cipients for exemplary performance in carrying out
7 programs under this Act, which awards shall be
8 based on—

9 “(A) eligible recipients exceeding chal-
10 lenging performance measures established
11 under section 113(b) in a manner that reflects
12 sustained or significant improvement;

13 “(B) eligible recipients effectively devel-
14 oping connections between secondary education
15 and postsecondary education and training;

16 “(C) the adoption and integration of rig-
17 orous and challenging academic and technical
18 coursework;

19 “(D) an eligible recipient’s progress in hav-
20 ing special populations participating in voca-
21 tional and technical education programs meet
22 local adjusted levels of performance; or

23 “(E) other factors relating to the perform-
24 ance of the eligible recipient under this Act as
25 the eligible agency determines are appropriate.

1 “(11) providing for activities to support entre-
2 preneurship education and training;”.

3 **SEC. 15. DISTRIBUTION OF FUNDS TO SECONDARY SCHOOL**
4 **PROGRAMS.**

5 Section 131 (20 U.S.C. 2351) is amended—

6 (1) by striking subsection (a) and redesignating
7 subsections (b) through (i) as subsections (a)
8 through (h), respectively;

9 (2) in subsection (a) (as so redesignated)—

10 (A) in the subsection heading, by striking
11 “Special” and “for Succeeding Fiscal Years”;
12 and

13 (B) by striking “for fiscal year 2000 and
14 succeeding fiscal years”; and

15 (3) in subsection (b) (as so redesignated)—

16 (A) by striking “subsection (b)” and in-
17 serting “subsection (a)”; and

18 (B) by striking “(42 U.S.C. 9902(2))” and
19 inserting “(42 U.S.C. 9902(2))”.

20 **SEC. 16. ELIMINATION OF REDISTRIBUTION RULE.**

21 Section 133 (20 U.S.C. 2353) is amended by striking
22 subsection (b) and redesignating subsections (c) and (d)
23 as subsections (b) and (c), respectively.

1 **SEC. 17. LOCAL PLAN FOR VOCATIONAL AND TECHNICAL**
2 **EDUCATION PROGRAMS.**

3 Section 134(b) (20 U.S.C. 2354(b)) is amended—

4 (1) in paragraph (2), by inserting “and local”
5 after “State”;

6 (2) in paragraph (3)—

7 (A) by redesignating subparagraphs (A)
8 through (C) as subparagraphs (B) through (D),
9 respectively, and inserting before such subpara-
10 graphs the following:

11 “(A) offer the appropriate courses of at
12 least one of the model sequences of courses de-
13 scribed in section 124(e)(1), as appropriate to
14 the eligible recipient responsible for that ele-
15 ment of the sequence;”;

16 (B) in subparagraph (B) (as so redesign-
17 ated)—

18 (i) by inserting “rigorous and chal-
19 lenging” after “integration of”; and

20 (ii) by inserting “subjects (as defined
21 by section 9101(11) of the Elementary and
22 Secondary Education Act of 1965 (20
23 U.S.C. 7801(11)))” after “core academic”;
24 and

1 (C) in subparagraph (D) (as so redesignig-
2 nated), by inserting “rigorous and” after
3 “taught to the same”;

4 (3) by redesignating paragraphs (4) through
5 (10) as paragraphs (5) through (11), respectively,
6 and inserting after paragraph (3) the following:

7 “(4) describe how comprehensive professional
8 development (including initial teacher preparation)
9 for vocational and technical, academic, guidance,
10 and administrative personnel will be provided that
11 promotes the integration of rigorous and challenging
12 academic and technical education (including cur-
13 rriculum development);”;

14 (4) in paragraph (5) (as so redesignated)—

15 (A) by inserting “academic and vocational
16 and technical” after “students,”; and

17 (B) by inserting “(including the eligible re-
18 cipients that offer elements of the model se-
19 quence of courses)” after “such individuals and
20 entities” ; and

21 (5) in paragraph (8) (as so redesignated)—

22 (A) in subparagraph (A), by striking “;
23 and” and inserting a semicolon;

24 (B) in subparagraph (B), by inserting
25 “and” after the semicolon; and

1 (C) by inserting after subparagraph (B)
2 the following:

3 “(C) will provide activities to prepare spe-
4 cial populations, including single parents and
5 displaced homemakers, for high skill, high wage
6 occupations that will lead to self-sufficiency;”.

7 **SEC. 18. LOCAL USE OF FUNDS.**

8 Section 135 (20 U.S.C. 2355) is amended—

9 (1) in subsection (b)—

10 (A) in paragraph (1), by striking “to en-
11 sure learning in the core academic” and insert-
12 ing “as established in the State-developed
13 model sequences of courses described in section
14 122(c)(1)(A) to ensure learning in the core aca-
15 demic subjects (as defined by section 9101(11)
16 of the Elementary and Secondary Education
17 Act of 1965 (20 U.S.C. 7801(11)))”;

18 (B) by striking paragraph (8);

19 (C) by redesignating paragraphs (2)
20 through (7) as paragraphs (4) through (9), re-
21 spectively, and inserting after paragraph (1) the
22 following:

23 “(2) link secondary vocational and technical
24 education and postsecondary vocational and tech-
25 nical education, including offering model sequences

1 of courses and implementing tech-prep programs
2 consistent with the activities described in paragraph
3 (3);

4 “(3) support tech-prep programs (if the eligible
5 recipient receives the funds from the eligible agency
6 under section 112(a)(1)) that—

7 “(A) are carried out under an articulation
8 agreement between the participants in a consor-
9 tium, which shall include—

10 “(i) a local educational agency, an in-
11 termediate educational agency or area vo-
12 cational and technical education school
13 serving secondary school students, or a
14 secondary school funded by the Bureau of
15 Indian Affairs; and

16 “(ii)(I) a nonprofit institution of high-
17 er education that offers—

18 “(aa) a 2- or 4-year degree
19 program, or a 2-year certificate
20 program, and is qualified as an
21 institution of higher education
22 pursuant to section 102 of the
23 Higher Education Act of 1965
24 (20 U.S.C. 1002) (except those
25 institutions described in section

1 102(a)(1)(C) of such Act), in-
2 cluding an institution receiving
3 assistance under the Tribally
4 Controlled College or University
5 Assistance Act of 1978 (25
6 U.S.C. 1801 et seq.) and a trib-
7 ally controlled postsecondary vo-
8 cational and technical institution;
9 or

10 “(bb) a 2-year apprentice-
11 ship program that follows sec-
12 ondary instruction, if such non-
13 profit institution of higher edu-
14 cation is not prohibited from re-
15 ceiving assistance under part B
16 of title IV of the Higher Edu-
17 cation Act of 1965 (20 U.S.C.
18 1071 et seq.) pursuant to the
19 provisions of section 435(a)(3) of
20 such Act (20 U.S.C. 1083(a)); or

21 “(II) a proprietary institution of high-
22 er education that offers a 2-year associate
23 degree program and is qualified as an in-
24 stitution of higher education pursuant to
25 section 102 of the Higher Education Act

1 of 1965 (20 U.S.C. 1002), if such propri-
2 etary institution of higher education is not
3 subject to a default management plan re-
4 quired by the Secretary,

5 and may include nonprofit organizations that
6 provide eligible recipients with technology and
7 programs to enhance math and science skills,
8 employers, and labor organizations;

9 “(B) consist of a minimum of 2 years of
10 secondary school preceding graduation and a
11 minimum of 2 years of higher education, or an
12 apprenticeship program of at least 2 years, fol-
13 lowing secondary instruction;

14 “(C) meet academic standards developed
15 by the State, including standards developed
16 under section 1111 of the Elementary and Sec-
17 ondary Education Act of 1965 (20 U.S.C.
18 6311) for secondary students, and support pro-
19 ficiency in mathematics, science, reading, writ-
20 ing, communications, and technologies;

21 “(D) are comprised of model sequences of
22 courses that integrate rigorous and challenging
23 academics and vocational and technical edu-
24 cation;

1 “(E) provide technical preparation in a ca-
2 reer field such as engineering technology; ap-
3 plied science; a mechanical, industrial, or prac-
4 tical art or trade; agriculture; health occupa-
5 tions; business; applied economics; advanced
6 manufacturing; or other high-demand occupa-
7 tions as determined by the State;

8 “(F) use, if appropriate and available,
9 work-based or worksite learning in conjunction
10 with academic and vocational and technical edu-
11 cation;

12 “(G) use educational technology and dis-
13 tance learning, as appropriate, to involve all the
14 consortium partners more fully in the develop-
15 ment and operation of programs;

16 “(H) facilitate and promote close working
17 relationships among eligible recipients to ensure
18 that programs within a geographic area are
19 closely integrated with tech-prep program ac-
20 tivities;

21 “(I) are sustainable and use performance
22 indicator data, described in section 113, to in-
23 form program quality;

24 “(J) include academic and career coun-
25 seling for participants that provides information

1 to students (and parents, as appropriate) re-
2 garding tech-prep programs and supports stu-
3 dent progress in completing tech-prep pro-
4 grams;

5 “(K) include in-service training for teach-
6 ers that—

7 “(i) provides for joint training for
8 teachers in tech-prep programs; and

9 “(ii) is designed to ensure that teach-
10 ers and administrators stay current with
11 the needs, expectations, and methods of
12 business and all aspects of an industry;
13 and

14 “(L) provide students with transferable
15 credit between the consortium members, as de-
16 scribed in subparagraph (A), and may include
17 programs that allow secondary programs to be
18 co-located on postsecondary campuses;”;

19 (D) in paragraph (5) (as so redesign-
20 nated)—

21 (i) by inserting “, and the related
22 math and science education” after “use of
23 technology in vocational and technical edu-
24 cation”;

25 (ii) in subparagraph (B)—

1 (I) by inserting “(including the
2 math and science knowledge that pro-
3 vides a strong basis for such skills)”
4 after “technical skills”; and

5 (II) by striking “and tele-
6 communications field” and inserting
7 “fields”; and

8 (iii) in subparagraph (C)—

9 (I) by striking “work” and in-
10 sserting “collaborate”; and

11 (II) by inserting “that improve
12 the math and science knowledge of
13 students” after “mentoring pro-
14 grams”;

15 (E) in paragraph (6) (as so redesign-
16 nated)—

17 (i) by striking “teachers,” and insert-
18 ing “secondary and postsecondary teach-
19 ers, instructors,”; and

20 (ii) in subparagraph (A), by striking
21 “in effective teaching skills based on re-
22 search” and inserting “in effective integra-
23 tion of rigorous and challenging academic
24 and vocational and technical education, in

1 effective teaching skills based on scientific-
2 ically based research”; and

3 (F) by inserting after paragraph (9) (as so
4 redesignated) the following:

5 “(10) provide activities to prepare special popu-
6 lations, including single parents and displaced home-
7 makers, for high skill, high wage occupations that
8 will lead to self sufficiency.”; and

9 (2) in subsection (c)—

10 (A) in paragraph (2), by inserting “, re-
11 garding the range of postsecondary options
12 available, including for adult students who are
13 changing careers or updating skills” before the
14 semicolon;

15 (B) in paragraph (5), by inserting “, in-
16 cluding the establishment and operation of spe-
17 cial arrangements with industry partners that
18 allow qualified industry professionals to serve as
19 faculty in postsecondary programs” before the
20 semicolon;

21 (C) in paragraph (8), by striking “aides”
22 and inserting “aids”;

23 (D) in paragraph (9), by inserting “that
24 address the integration of academic and voca-

1 tional and technical education and” after
2 “teacher preparation programs”;

3 (E) by redesignating paragraphs (10)
4 through (14) as paragraphs (12) through (16),
5 and paragraph (15) as paragraph (19), respec-
6 tively, and inserting after paragraph (9) the fol-
7 lowing:

8 “(10) to develop and expand postsecondary pro-
9 gram offerings that are accessible by students, in-
10 cluding the use of distance education;

11 “(11) to provide activities to support entrepre-
12 neurship education and training;”;

13 (F) in paragraph (12) (as so redesign-
14 ated), by inserting “, including development of
15 new proposed model sequences of courses for
16 consideration by the eligible agency and courses
17 that prepare individuals academically and tech-
18 nically for current and emerging occupations
19 that are in demand” before the semicolon;

20 (G) by amending paragraph (16) (as so re-
21 designated) to read as follows:

22 “(16) to support training in nontraditional
23 fields; ”; and

24 (H) by inserting after paragraph (16) (as
25 so redesignated) the following:

1 “(17) to provide accurate information relating
2 to the availability of supportive services available in
3 an area served by the eligible recipient, and referral
4 to such services, as appropriate;

5 “(18) to support the activities described in sub-
6 section (b)(3); and”.

7 **SEC. 19. REPEAL OF TECH-PREP EDUCATION ACT.**

8 Title II (20 U.S.C. 2071 et seq.) is repealed.

9 **SEC. 20. GENERAL PROVISIONS.**

10 (a) REDESIGNATION OF TITLE III.—

11 (1) REDESIGNATION.—Title III of the Carl D.
12 Perkins Vocational and Technical Education Act of
13 1998 (20 U.S.C. 2391 et seq.) is amended by redesi-
14 gnating such title as title II of such Act. Such title
15 is further amended by redesignating sections 311
16 through 318 as section 211 through 218, respec-
17 tively, and sections 321 through 325 as sections 221
18 through 225, respectively.

19 (2) TABLE OF CONTENTS AMENDMENT.—The
20 table of contents of the Carl D. Perkins Vocational
21 and Technical Education Act of 1998 is amended—

22 (A) by striking the items relating to title
23 III; and

24 (B) by amending the items relating to title
25 II to read as follows:

“TITLE II—GENERAL PROVISIONS

“PART A—FEDERAL ADMINISTRATIVE PROVISIONS

- “Sec. 211. Fiscal requirements.
- “Sec. 212. Authority to make payments.
- “Sec. 213. Construction.
- “Sec. 214. Voluntary selection and participation.
- “Sec. 215. Limitation for certain students.
- “Sec. 216. Federal laws guaranteeing civil rights.
- “Sec. 217. Participation of private school children.
- “Sec. 218. Participation of private school personnel.

“PART B—STATE ADMINISTRATIVE PROVISIONS

- “Sec. 221. Joint funding.
- “Sec. 222. Prohibition on use of funds to induce out-of-State relocation of businesses.
- “Sec. 223. State administrative costs.
- “Sec. 224. Limitation on Federal regulations.
- “Sec. 225. Student assistance and other Federal programs.”.

1 (b) FISCAL REQUIREMENTS.—Section 211(b) (20
2 U.S.C. 2391(b)) (as so redesignated) is amended by in-
3 serting after paragraph (2) the following:

4 “(3) DEFINITION.—For purposes of this sub-
5 section, the term ‘preceding fiscal year’ means the
6 Federal fiscal year or the 12-month fiscal period
7 used by a State for official reporting purposes, prior
8 to the beginning of the Federal fiscal year in which
9 funds are available for obligation by the Secretary.”.

10 (c) PARTICIPATION OF PRIVATE SCHOOL CHIL-
11 DREN.—Section 217 (as so redesignated) is amended to
12 read as follows:

13 **“SEC. 217. PARTICIPATION OF PRIVATE SCHOOL CHIL-**
14 **DREN.**

15 “(a) PARTICIPATION ON EQUITABLE BASIS.—

1 “(1) IN GENERAL.—To the extent consistent
2 with the number of children in the school district of
3 a local educational agency that is eligible to receive
4 funds under this Act, or that serves the area in
5 which a program assisted under this Act is located,
6 who are enrolled in private nonprofit elementary
7 schools and secondary schools, or, with respect to in-
8 structional or personnel training programs funded
9 by an eligible agency, the local educational agency,
10 after consultation with appropriate private school of-
11 ficials—

12 “(A) shall provide, on an equitable basis
13 and as may be necessary, for the benefit of
14 such children in such schools, secular, neutral,
15 and nonideological services (or other benefits),
16 materials, and equipment, including the partici-
17 pation of the teachers of such children (and
18 other educational personnel serving such chil-
19 dren) in training programs; or

20 “(B) if such services, materials, and equip-
21 ment are not feasible or necessary in one or
22 more such private schools (as determined by the
23 local educational agency after consultation with
24 the appropriate private school officials), shall
25 provide such other arrangements as will assure

1 equitable participation of such children in the
2 purposes and benefits of this Act.

3 “(2) APPLICATION OF REQUIREMENTS.—The
4 requirements of this section relating to the participa-
5 tion of children, teachers, and other personnel serv-
6 ing such children shall apply to programs carried
7 out under this Act by an eligible agency or local edu-
8 cational agency, whether directly or through grants
9 to, or contracts with, other public or private agen-
10 cies, institutions, or organizations.

11 “(b) EQUAL EXPENDITURES.—

12 “(1) IN GENERAL.—Expenditures for programs
13 under subsection (a) shall be equal (consistent with
14 the number of children to be served) to expenditures
15 for programs under this Act for children enrolled in
16 the public schools of the local educational agency.

17 “(2) CONCENTRATED PROGRAMS.—When funds
18 available to a local educational agency under this
19 Act are used to concentrate programs on a par-
20 ticular group, attendance area, or grade or age level,
21 the local educational agency shall, after consultation
22 with the appropriate private school officials, assure
23 the equitable participation in both the purposes and
24 benefits of such programs for children enrolled in
25 private schools who are included within the group,

1 attendance area, or grade or age level selected for
2 such concentration shall, taking into account the
3 needs of the individual children and other factors
4 that relate to the expenditures referred to in para-
5 graph (1).

6 “(c) ADMINISTRATIVE REQUIREMENTS.—

7 “(1) FUNDS, MATERIALS AND EQUIPMENT.—

8 “(A) FUNDS.—The control of funds ex-
9 pended under this section shall be administered
10 by a public agency.

11 “(B) MATERIALS AND EQUIPMENT.—The
12 title to materials and equipment provided under
13 this section, shall remain with a public agency
14 for the uses and purposes provided in this Act

15 “(2) PROVISION OF SERVICES.—Services pro-
16 vided under this Act shall be provided by employees
17 of a public agency or through contract by such a
18 public agency with a person, association, agency, or-
19 ganization, institution or corporation that, in the
20 provision of such services, is independent of the pri-
21 vate school and of any religious organizations, and
22 such employment or contract shall be under the con-
23 trol and supervision of such a public agency. The
24 funds utilized under this section shall not be com-
25 mingled with State or local funds.

1 “(3) TIMING AND CONTENT OF CONSULTA-
2 TION.—The consultation required under this section
3 shall include meetings of agency and private school
4 officials and shall occur before the eligible agency
5 and local educational agency makes any decision
6 that affects the opportunities of eligible private
7 school children to participate in programs under this
8 Act. Such meetings shall include a discussion of
9 service delivery mechanisms (including third party
10 contractors) and shall continue throughout imple-
11 mentation and assessment of services under this Act.

12 “(d) WAIVER AND BYPASS PROCEDURES.—

13 “(1) STATE PROHIBITION.—If an eligible agen-
14 cy or local educational agency is prohibited, by rea-
15 son of any provision of law, from providing for the
16 participation in programs of children enrolled in pri-
17 vate elementary schools and secondary schools as re-
18 quired by subsections (a) through (c), the Secretary
19 shall waive such requirements for the agency in-
20 volved and shall arrange for the provision of services
21 to such children through arrangements that shall be
22 subject to the requirements of this section.

23 “(2) FAILURE TO COMPLY.—If the Secretary
24 determines that an eligible agency or a local edu-
25 cational agency has substantially failed, or is unwill-

1 ing, to provide for the participation on an equitable
2 basis of children enrolled in private elementary
3 schools and secondary schools as required by sub-
4 sections (a) through (c), the Secretary may waive
5 such requirements and shall arrange for the provi-
6 sion of services to such children through arrange-
7 ments that shall be subject to the requirements of
8 this section.

9 “(3) PAYMENT FROM STATE ALLOTMENT.—
10 When the Secretary arranges for services under this
11 subsection, the Secretary shall, after consultation
12 with the appropriate public school and private school
13 officials, pay the cost of such services, including the
14 administrative costs of arranging for those services,
15 from the appropriate allotment of the eligible agency
16 under this Act.

17 “(4) DURATION OF DETERMINATION.—Any de-
18 termination by the Secretary under this section shall
19 continue in effect until the Secretary determines
20 that there will no longer be any failure or inability
21 on the Act of the eligible agency or local educational
22 agency to meet the requirements of subsections (a)
23 through (c).

24 “(5) REVIEW OF DETERMINATION.—The Sec-
25 retary shall not take any final action under this sec-

1 tion until the eligible agency and the local edu-
2 cational agency affected by such action have had an
3 opportunity, for not less than 45 days after receiving
4 written notice thereof, to submit written objections
5 and to appear before the Secretary or the Sec-
6 retary's designee to show cause why that action
7 should not be taken.

8 “(e) WITHHOLDING OF ALLOTMENT OR ALLOCA-
9 TION.—Pending final resolution of any investigation or
10 complaint that could result in a waiver under subsection
11 (d)(1) or (d)(2), the Secretary may withhold from the al-
12 lotment or allocation of the affected eligible agency or local
13 educational agency the amount estimated by the Secretary
14 to be necessary to pay the cost of services to be provided
15 by the Secretary under such subsection.

16 “(f) PRIOR DETERMINATION.—Any bypass deter-
17 mination by the Secretary under Title I or Title IX of
18 the Elementary and Secondary Education Act of 1965
19 shall, to the extent consistent with the purposes of this
20 Act, apply to programs under this Act until such deter-
21 minations terminate or expire.”.

○